

REMARKS

Responsive to the Notice of Non-Compliant Amendment mailed June 23, 2010 (the "Notice"), the Application is hereby amended.

The Notice referred to an Amendment filed in response to the Office Action of December 28, 2009 (the "Office Action").

The continuation sheet of the Notice indicated that the claims of the March 29, 2010 amendment were not directed to an elected invention.

As an initial matter, the undersigned appreciates with thanks the Examiner and the Examiner's Supervisor taking time to discuss this matter in a telephone interview on August 4, 2010 (the "Interview"), and in follow-up discussions from August 6-17.

The undersigned also gratefully appreciates the exchange by telefax of draft amendments of the claim in question in order to most effectively resolve the matter.

The substance of the Interview and follow-up discussions, as reflected in the Interview Summary posted August 18, 2010, was that an amendment to the independent claim to include a bottle with an outer thread and a tamper-evident ring would overcome the issues raised in the Notice.

It is thereby understood that the amendment to the independent claim have been considered in view of the question of non-compliance and been deemed acceptable and in condition for examination, as further detailed below.

Issue of Non-Compliance

The Notice objected to the claims 111-155 introduced with the March 29, 2010 Amendment, stating that the independent claim 111 was directed to an invention that is independent or distinct from the invention originally claimed, and therefore claims 111-155 are withdrawn from consideration and no claims remain to examiner.

The Notice stated that independent claim 111 is directed to a non-elected invention because i) the previous independent claim 56 required a bottle with an outer thread and a tamper-evident ring, tamper evident means and a first opening means, and ii) the new claim 111 required a shaping die that was not previously required.

It is understood that the new claims 111-155 introduced with the Amendment were entered and subsequently withdrawn. Accordingly, the present state of the claims includes claims 1-110 as canceled and 111-155 as withdrawn from Examination.

In response to the Notice, claims 111-155 are canceled herewith, without prejudice. New claims 156-200 replace claims 111-155, wherein each of claims 156-200 recite subject matter corresponding to a respective canceled claim 111-155.

The new claims 156-200 are believed to overcome the objections raised by the Notice for at least the following reasons.

As to the recitation of a bottle with an outer thread and a tamper-evident ring, Applicant responds that new independent claim 156 recites all of the subject matter of claim 111 and further

recites the capsule forming a screw stopper for a container typically designed to contain alcoholic drinks and comprising a bottle with which a neck is provided with an outer thread and a tamperproof ring.

As to the recitation of a shaping die, Applicant respectfully submits that this feature was previously recited in claims 104 and 105 (now canceled), and that claims 104 and 105 were indicated as generic to all species in the Requirement for Election of August 3, 2009.

No other revisions are introduced with the new claims 156-200 with respect to canceled claims 111-155.

Based on the telefaxed exchanges of draft amendments and the follow-up discussions indicated above, Applicant understands that new claim 156, as presented herein, overcomes all the issues raised in the Notice and places the claims in condition for examination. In particular, it is understood that the objection to the recitation of a shaping die is withdrawn based at least on previous claims 104 and 105, and that the recitation of a bottle as presented herein is sufficient to overcome any remaining objections.

It is further respectfully submitted that 156-200 find support in the specification, the drawing figures, and the claims as originally filed. For example, independent claim 111 recites features of previous claims 1, 49, 50, 51, and 52 (corresponding also to canceled claims 104-107). Claims 112-113 recite features corresponding to previous claims 51 and 106 (also page 23 line

26 to page 24 line 23). Support for the new claims is generally found at least in Figures 11a-12d and page 22 line 23 to page 26 line 17. Based at least on the foregoing citations to the application as originally filed, it is respectfully submitted that New claims 156-200 are not believed to introduce new matter.

In addition, claims 156-200 are believed to read on the species identified as Species A, Figs. 1a, 1b, 4a, 4b, 13a and 13b as elected in the response filed on October 23, 2009.

Based at least on the statements set forth above, it is respectfully submitted that Applicant has fully responded to the Notice, and that the application, as amended with the new claims provided herein, are in condition for examination.

Withdrawal of the indication of non-compliance and consideration of the claims presented herein are respectfully requested.

In Response to the Office Action of December 28, 2009

It is respectfully submitted that the new claims submitted herewith overcome the matters raised in the Office Action of December 28, 2009 (the "Office Action"), at least for the reasons below, and that the claims are believed to be in condition for allowance.

Formal Matters - Section 112, second paragraph

Claims 56-73, 81-87, 99-102 and 104-110 were rejected under 35 USC 112, second paragraph as being indefinite for a plurality of informalities identified on page 2 of the Official Action.

In response, claims 56-110 have been canceled, without prejudice. It is therefore respectfully submitted that the rejections under 35 USC 112, second paragraph have been rendered moot. Withdrawal of the rejections under 35 USC 112, second paragraph are thereby respectfully solicited.

It is further respectfully submitted that new claims 156-200 avoid the issues raised by the Official Action in connection with the rejections under 35 USC 112, second paragraph.

Substantive Issues - Section 103

The Official Action rejected claims 56-73, 81, 83-87, 99, 102 and 104-107 under 35 USC 103(a) as being unpatentable over Granger et al. (U.S. Pub. No. 2003/0021919; "GRANGER") in view of Cox (WO 94/20237; "COX").

The Official Action rejected claim 82 under 35 USC 103(a) as being unpatentable over GRANGER and COX, and further in view of Robinson (U.S. Patent No. 5,915,576; "ROBINSON").

In response, it is firstly noted that claims 56-110 have been canceled, as indicated above.

It is further respectfully submitted that none of the references GRANGER, COX, and ROBINSON, individually or in combination, teach or suggest all the features of the invention as recited by new claims 156-200.

The Official Action offers GRANGER as teaching a stopper capsule comprising two parts fixed together in rotation and axially by an assembly means, the capsule being provided with an outer

part or shell wherein an outer skirt of the shell comprises at least a substantially cylindrical part with a first diameter D1.

The Official Action concedes that GRANGER fails to teach an expanded part with a height H2 inscribed in a circle with a second diameter D2 greater than the first diameter D1 of the substantially cylindrical part. The Official Action offers COX as teaching a tamper-evident ring and an expanded part forming an annular radial cavity.

GRANGER and COX teach outer caps and inserts assembled to form a final product by applying a mandrel (GRANGER paragraphs [0059]-[0065]) or a ram (COX page 11 lines 11-25) to press the two parts into coaxial engagement.

However, neither of GRANGER or COX, individually or in combination, teach or suggest a step wherein an expandable punch radially expands and forces a part of the skirt radially into contact with an inner wall of a radial cavity of a shaping die, as recited by claim 156.

On the contrary, GRANGER teaches only that a mandrel is extracted with the assistance of an expandable core, (paragraph [0064]). COX teaches that the ram 22 is withdrawn as soon as a crown portion of the plastics insert 6 is in abutments with the crown portion 3 of the container closure 1, (page 11, lines 26-30).

There is no teaching or suggestion, in any of the references applied by the Official Action, of a radial expansion such that a skirt is radially forced into contact with a radial cavity of a shaping die.

It is therefore respectfully submitted that, at least for the foregoing reasons, claim 156 is patentable over the references GRANGER, COX, and ROBINSON.

It is further respectfully submitted that the claims depending from claim 156 are patentable over the references GRANGER, COX, and ROBINSON at least for depending from a patentable parent claim.

For example, it is respectfully submitted that none of the references GRANGER, COX, and ROBINSON teach or suggest a method wherein the expandable punch and the radial cavity are configured such that the radially expanded part and the substantially cylindrical part of said outer skirt have substantially the same thickness, as recited in claim 162.

Accordingly, it is respectfully submitted that claim 162 is patentable in its own right, in addition to being dependent from a patentable parent claim.

Reconsideration and allowance of the claims are respectfully requested.

From the foregoing, it will be apparent that Applicant has fully responded to the December 28, 2009 Official Action and that the claims as presented are patentable. In view of this, Applicant respectfully requests reconsideration of the claims, as presented, and their early passage to issue.

In order to expedite the prosecution of this case, the Examiner is invited to telephone the attorney for Applicant at the number provided below if the Examiner is of the opinion that

further discussion of this case would be helpful in advancing prosecution.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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